

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MARSHALL ABBAS KHAN,

Case No.: 2:20-cv-00873-APG-DJA

Plaintiff

Order

V.

STEVEN B. WOLFSON, et al.,

Defendants

8 Plaintiff Marshall Abbas Khan sues various state and county officials. He contends the
9 defendants forced him to pay child support without proving he contractually agreed to do so,
10 failed to provide him due process before suspending his driver's license, and intercepted his tax
11 refund and stimulus payment without his consent. He also contends he was wrongfully arrested
12 and denied medication while in custody.

13 The only remaining defendant is Vincent Ochoa, who has not appeared in this action. On
14 September 23, 2020, the clerk's office sent Khan a notice of intent to dismiss Ochoa for failure
15 to file proof of service. ECF No. 39. Khan responded that a process server delivered the
16 summons and complaint to "JEA, Deniece Lopez." ECF No. 41 at 1. Based on this response, it
17 does not appear that service on Ochoa was properly accomplished under Federal Rule of Civil
18 Procedure 4(e). Service was not made on Ochoa personally, it was not left at his dwelling or
19 usual place of abode with a person of suitable age and discretion who resides there, and there is
20 no evidence that Lopez is an agent authorized by appointment or law to receive process on
21 Ochoa's behalf. *See Fed. R. Civ. P. 4(e)(2).* Nor is there evidence that Ochoa was properly
22 served under Nevada law. *See Fed. R. Civ. P. 4(e)(1); Nev. R. Civ. P. 4.2(a), (d).* I therefore

1 ordered Khan to show cause why his claims against Ochoa should not be dismissed for lack of
2 timely and proper service. ECF No. 97.

3 Khan responded that due to Covid 19, he hired a process server who was unable to serve
4 Ochoa where he normally conducts his business, so the process server left the complaint with the
5 court clerk. ECF No. 98 at 53. While the pandemic has made personal service more difficult, it
6 does not excuse the service requirement. Consequently, I dismiss Khan's claims against Ochoa
7 without prejudice for lack of timely and properly service.

8 I THEREFORE ORDER that plaintiff Marshall Abbas Khan's claims against defendant
9 Vincent Ochoa are dismissed without prejudice for lack of timely and proper service. The clerk
10 of court is instructed to close this case.

11 DATED this 3rd day of May, 2021.

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13 ANDREW P. GORDON
14 UNITED STATES DISTRICT JUDGE

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